

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen Abrams-Downey	Team: Squad #1	CCRB Case #: 201412492	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 12/13/2014 2:46 PM	Location of Incident: § 87(2)(b)	Precinct: 23	18 Mo. SOL 6/13/2016	EO SOL 6/13/2016	
Date/Time CV Reported Wed, 12/17/2014 11:40 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/17/2014 11:40 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Vega	09404	939647	PSA 5
2. POM Brett Jackson	11084	951844	PSA 5
3. SGT Dereon Willis	02806	905302	PSA 5
4. INS Eric Pagan	00000	913694	023 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Joseph Federico	03725	944261	023 PCT
2. POM Edwin Minaya	10575	944813	PSA 5
3. POM Rodney Jiles	03750	921443	PSA 5
4. POF Magally Ramsaier	23243	940829	PSA 5

Officer(s)	Allegation	Investigator Recommendation
A.INS Eric Pagan	Abuse: Ins. Eric Pagan entered and searched § 87(2)(b) Manhattan.	
B.SGT Dereon Willis	Abuse: Sgt. Dereon Willis detained § 87(2)(b)	
C.SGT Dereon Willis	Discourtesy: Sgt. Dereon Willis acted rudely toward § 87(2)(b)	
D.SGT Dereon Willis	Force: Sgt. Dereon Willis used physical force against § 87(2)(b)	
E.POM Brett Jackson	Force: PO Brett Jackson used physical force against § 87(2)(b)	
F.POM Michael Vega	Force: PO Michael Vega used physical force against § 87(2)(b)	

### Case Summary

§ 87(2)(b) filed this complaint with the CCRB by phone on December 17, 2014. § 87(2)(b) who witnessed the incident, filed the complaint on behalf of her § 87(2)(b)-old son, § 87(2)(b) and her § 87(2)(b)-old daughter, § 87(2)(b) (Board Review 01).

At approximately 2:46 p.m. on December 13, 2014, several officers from the 23<sup>rd</sup> Precinct and PSA 5, responded to a report of an assault outside § 87(2)(b), in Manhattan. The Commanding Officer of the 23<sup>rd</sup> Precinct, Ins. Pagan, as well as Sgt. Dereon Willis, PO Michael Vega, and PO Brett Jackson, of PSA 5, were among the officers to respond to this call. Many of these officers approached § 87(2)(b) where the suspected perpetrator of this crime, § 87(2)(b) lived. After several minutes, § 87(2)(b) opened the door and exited into the hallway. Multiple other males of similar pedigree followed him out of the apartment. They were all handcuffed. Several officers, including Sgt. Willis, entered the apartment and handcuffed § 87(2)(b)'s sister, § 87(2)(b) (**Allegations A and B**). Sgt. Willis then walked § 87(2)(b) into the hallway, where he allegedly removed his asp and poked her in the stomach five times (**Allegation C**). PO Jackson and other officers walked § 87(2)(b) and one other handcuffed male to the street and all but § 87(2)(b) were released. § 87(2)(b) made his body tense to prevent the officers from placing him inside the vehicle. PO Jackson, PO Vega, and Sgt. Willis, among other officers, overcame this resistance by pushing § 87(2)(b) by his arms, legs, and torso (**Allegations D, E, and F**). § 87(2)(b) was then transported to the PSA 5 stationhouse and was charged with § 87(2)(b) (Arrest report Board Review 02). § 87(2)(b) did not provide a CCRB statement on the advice of his criminal attorney § 87(2)(b)'s statement Board Review 03, § 87(2)(b)'s statement Board Review 04).



201412492 snagit 1 entry to exit of ins.mp4

### Mediation, Civil, and Criminal Histories

This case was not suitable for mediation because one of the victims, § 87(2)(b) was arrested § 87(2)(g). As of June 22, 2015, no notice of claim was filed regarding this incident (Board Review 05). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is the first CCRB case involving § 87(2)(b) or § 87(2)(b) (Board Review 7, 8, 9).
- Ins. Pagan has one previous complaint in his 25 years with the NYPD. It was not substantiated § 87(2)(g) (19. Board Review).
- Sgt. Willis has been a member of the NYPD for 22 years. He has 19 allegations as part of seven previous cases. Sgt. Willis has had one entry, two discourtesy, and six force allegations made against him. None of these have been substantiated (Board Review 10).
- PO Vega has been a member of the NYPD for nine years. He has two previous allegations including one force allegation, which was unsubstantiated (Board Review 11).
- PO Jackson has been a member of the NYPD for 3 years. This is his first complaint (Board Review 12).

### Pleading

Sgt. Willis acknowledged entering the § 87(2)(b)'s apartment and provided a reason for doing so. While Sgt. Willis did not allege that he was instructed to enter by or obtained permission from

Ins. Pagan, Ins. Pagan was the highest ranking officer on scene and clearly identified himself on video as the one in charge. Additionally, Sgt. Willis testified that Ins. Pagan was present on scene prior to his arrival. § 87(2)(g)

### **Findings and Recommendations**

#### **Recommendations**

**Allegation A—Abuse of Authority: Ins. Eric Pagan entered and searched § 87(2)(b), Manhattan.**

The following facts are undisputed: Ins. Pagan was the highest ranking officer on scene. Sgt. Willis entered § 87(2)(b) after § 87(2)(b) exited the apartment and was handcuffed. § 87(2)(b) opened the door and exited the apartment peaceably on his own. § 87(2)(g)

§ 87(2)(g). Finally, video evidence confirms that there were at least five black males who exited the apartment, and § 87(2)(b) and one other black male were described as injured and taken outside in handcuffs. The video footage does not show the entry itself.

Sgt. Willis testified that at the point that he entered the apartment, he had not yet confirmed whether they had the suspected perpetrator in custody, and he wanted to enter the apartment in order to confirm that there was no one else inside. Ins. Pagan had no recollection of the incident, despite identifying himself in the video.

An entry into a person's home for purpose of arrest must be based upon probable cause and exigent circumstances. Kirk v. Louisiana, 536 U.S. 635 (2002) (Board Review 18). To determine whether exigent circumstances are present, courts focus on six factors, including: (1) the gravity or violent nature of the offense which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause... to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry. People v. McBride, 14 N.Y.3d 440, 446 (2010) (Board Review 16) quoting U.S. v. Martinez-Gonzalez, 686 F.2d 93, 100 (2d. Cir. 1982) (Board Review 16) These factors are probative for answering the ultimate question of exigency – whether, under all the circumstances present, there is an urgent need for the entry. McBride, at 446.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

However, Sgt. Willis testified that at the time, he had not yet determined § 87(2)(b)'s identity, so did not know whether he was still in the apartment at the time. Sgt. Willis, PO Vega and PO Jackson testified that, prior to entering, they spoke with the victim, § 87(2)(b) who was in an ambulance on scene. § 87(2)(b) told them that her boyfriend, who she identified as § 87(2)(b) and described as a black male, had assaulted her and gone inside his apartment § 87(2)(b) (Board Review 10, 14, 15).

Sgt. Willis stated that he did not have any sense how many people were inside the apartment prior to them exiting. The officers testified, and the video shows, that all the males (at least five) were handcuffed as they exited the apartment as the officers were not immediately sure which one was § 87(2)(b). The video also shows that § 87(2)(b) and one other male (both black males of similar age and build) were escorted from the building in handcuffs through a crowded and noisy hallway where officers, § 87(2)(b)'s family, and other civilians were moving about and talking. Sgt. Willis is seen talking to occupants of the apartment. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

**Allegation B – Abuse of Authority: Sgt. Dereon Willis detained** § 87(2)(b)

It is undisputed by way of § 87(2)(b)s and Sgt. Willis' testimony, that Sgt. Willis handcuffed § 87(2)(b) inside the apartment.

§ 87(2)(b) testified that she and her friend, § 87(2)(b) were sitting inside her apartment when Sgt. Willis and other officers entered. Sgt. Willis allegedly told § 87(2)(b) and § 87(2)(b) to stand up. § 87(2)(b) and § 87(2)(b) both complied with this order. Sgt. Willis then handcuffed § 87(2)(b) and walked her outside. Sgt. Willis told § 87(2)(b) to remain inside the apartment. § 87(2)(b) was unavailable and did not provide a statement to the CCRB.

§ 87(2)(b) was released shortly thereafter and was not charged. While the video captures both § 87(2)(b) in the building's hallway, it never shows her in handcuffs.



201412492 snagit§ 87(2)(b).mp4

Sgt. Willis testified that he was looking for a black male with regard to the alleged assault. He described § 87(2)(b) as verbally upset as she did not want to be handcuffed, but he described no difficulty in placing her in handcuffs. Further he did not describe any interference or action taken by § 87(2)(b) toward or against the police. § 87(2)(g)

**Allegation C—Discourtesy: Sgt. Dereon Willis acted rudely toward** § 87(2)(b)

In her CCRB testimony, § 87(2)(b) stated that Sgt. Willis handcuffed her inside the apartment and then walked her into the hallway. Once there, § 87(2)(b) told the officers that she could not breathe because there were many people around her. She also moved her body from side to side so she could get more space. § 87(2)(b) alleged that Sgt. Willis told her to stop moving, removed his baton, and used it to poke her in the stomach five times. This action did not cause § 87(2)(b) pain.

§ 87(2)(b) stated that she was on the other side of the hallway and unable to see her daughter at this time. Therefore, she did not know if Sgt. Willis poked her with his baton. However, § 87(2)(b) testified that she heard § 87(2)(b) say that she could not breathe and that an officer was “poking her in the private parts.”

Sgt. Willis denied poking § 87(2)(b) with his baton. He stated that he held her by her arms, but did not make any additional contact with her during the incident. PO Vegan and PO Jackson both testified that they did not see Sgt. Willis remove his baton at any point in the incident.

§ 87(2)(g)

**Allegation D—Force: Sgt. Dereon Willis used physical force against § 87(2)(b)**

**Allegation E—Force: PO Brett Jackson used physical force against § 87(2)(b)**

**Allegation F—Force: PO Michael Vega used physical force against § 87(2)(b)**

It is undisputed that several officers, including Sgt. Willis, PO Jackson, and PO Vega, pushed § 87(2)(b) inside a police car. § 87(2)(b) Sgt. Willis, PO Jackson, and PO Vega all testified that officers held § 87(2)(b) by his arms, legs, and torso after he was handcuffed. They then attempted to push him inside the rear passenger seat of a police car. During this action, § 87(2)(b) was propelled out of the vehicle, towards the street. § 87(2)(b) Sgt. Willis, PO Jackson, and PO Vega also all testified that § 87(2)(b) attempted to prevent the officers from placing him inside the vehicle by making his body tense. Finally, it is uncontested that § 87(2)(b) stopped resisting after his mother spoke to him and told him to comply with the officers. § 87(2)(b) was inside her apartment at this time and did not witness this portion of the incident.

According to NYPD Patrol Guide Procedure 203-11, “only that amount of force necessary to overcome resistance will be used to effect an arrest” (Board Review 17).

§ 87(2)(g)  
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§ 87(2)(g)  
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Squad: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date